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Attorneys for Plaintiff/Counterdefendant
SYNOPSYS, INC.

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SYNOPSYS, INC.,

Plaintiff,

v.

UBIQUITI NETWORKS, INC., UBIQUITI
NETWORKS INTERNATIONAL LIMITED,
CHING-HAN TSAI, and DOES 1-20,
inclusive,

Defendants.

UBIQUITI NETWORKS, INC. AND
UBIQUITI NETWORKS INTERNATIONAL
LIMITED,

Counterclaimants,

v.

SYNOPSYS, INC.,

Counterdefendant.

Case No. 3:17-cv-00561-WHO

**PLAINTIFF SYNOPSYS' L.R. 6-3
MOTION TO CHANGE HEARING
DATE ON MOTION FOR SANCTIONS,
MOTIONS FOR SUMMARY
JUDGMENT AND MOTION TO
EXCLUDE THE EXPERT TESTIMONY
OF JAMES E. MALACKOWSKI AND
WILLIAM HASLER**

Dept.: Courtroom 2, 17th Floor
Judge: Hon. William H. Orrick

Pursuant to Local Rule 6-3, Plaintiff Synopsys, Inc. (“Synopsys”) moves to change the hearing date on Plaintiff’s Motion for Sanctions (ECF No. 241), Plaintiff’s and Defendants’ Motions for Summary Judgment (ECF Nos. 248, 249, 256) and Defendants’ Motion to Exclude the Expert Testimony of James E. Malackowski and William Hasler (ECF No. 264) (collectively “Motions Hearing”). The Motions Hearing is currently scheduled for Wednesday, November 21, 2018, the day before Thanksgiving. Plaintiff’s counsel will be out of town or out of state on that day, some based on prepaid travel arrangements planned months in advance they are not able to rearrange. No other deadlines are affected by this request. Frost Decl. at ¶¶ 2-4, 8.

A hearing on the Motion for Sanctions (ECF No. 241) was set for November 7, 2018 and a hearing on the pending Motions for Summary Judgment (ECF Nos. 248, 249, and 256) was set for November 14, 2018 pursuant to the Court’s Minute Order dated June 6, 2018 (ECF No. 207) (setting cutoff date for hearing on dispositive motions on November 15, 2018). Frost Decl. at ¶ 3. On October 11, 2018, after the other four motions had been filed, Defendant Ubiquiti Networks, Inc. and Ubiquiti Networks International Ltd. (collectively “Ubiquiti Defendants”) filed a Motion to Exclude the expert testimony of two of Plaintiff’s experts, Mr. Malackowski and Mr. Hasler (“Motion to Exclude”). ECF No. 264. The Motion to Exclude was set for hearing on November 21, 2018. In an order dated October 12, 2018, the Court consolidated the three hearings and reset the combined hearing for November 21, 2018. ECF No. 267. Frost Decl. at ¶ 5.

In light of Plaintiffs’ unavailability to attend the November 21, 2018 hearing, counsel for Synopsys contacted Defendants’ counsel suggesting a stipulation to extend the Motions Hearing to November 28, 2018, the next available date on this Court’s civil case calendar. Frost Decl. at ¶ 6. Tsai’s counsel advised that he does not oppose Synopsys’ request to move the hearings to November 28, 2018. Counsel for the Ubiquiti Defendants advised that they oppose moving the hearings until November 28, 2018 because of the Court’s crowded calendar that day. *Id.* The Ubiquiti Defendants proposed that the Motions Hearing be reset to Monday, November 26, 2018, but that is not a date on which the Court hears its civil case calendar and also involves holiday travel. *Id.*

Synopsys alternatively suggested that the parties request the hearing on the Motions for Sanctions and for Summary Judgment be set on November 14, 2018, the original date for dispositive motions set by the Court, and the Motion to Exclude be heard on November 28, 2018. Frost Decl. at ¶ 7. Tsai's counsel has a trial setting in another matter and is not available on November 14. Counsel for the Ubiquiti Defendants advised that they are traveling November 14 and that the November 28 date is too late. *Id.*

Synopsys' request to move the hearing is reasonable and for good cause. *Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1259-60 n.7 (9th Cir. 2010) (finding good cause for an extension and explaining that "lack of availability due to a previously planned trip is a reasonable basis for seeking an extension of time"). Based on the dates set in the June 6, 2018 Minute Order (ECF No. 207) Synopsys' outside counsel of record made holiday plans to be out of town and out of state with their families for the Thanksgiving holiday. Many of these plans include prepaid travel on or before November 21, 2018 that cannot be rescheduled without penalty. Frost Decl. at ¶ 4. Synopsys would be prejudiced to be without its counsel of record at this hearing on several substantial and potentially dispositive motions. Frost Decl. at ¶ 6.

Accordingly, pursuant to Local Rule 6-3, Synopsys respectfully requests that this Court extend the date of the Motions Hearing until November 28, 2018, or alternatively set the hearing on the Motions for Sanctions and for Summary Judgment on its previously scheduled date, November 14, 2018 and the Motion to Exclude on November 28, 2018.

Pursuant to Civil L.R. 6-3(a)(5) and (6), Synopsys states that there have been eight previous modifications of time in this case, all by stipulation.¹ The previous time modifications do not relate to the pending motions and no further modifications to the schedule will be required if Synopsys' present motion to change the hearings on the Motion for Sanctions and Motions for

¹ See Stipulation to Extend Time to Respond to Compl. (ECF No. 11); Stipulation to Extend Time to Respond to Am. Compl. (ECF No. 71); Stipulation to Extend Time to Respond to 2d Am. Compl. (ECF No. 74); Stipulation to Extend Time to File Reply in Support of Mot. for Leave to File Am. Counterclaims (ECF No. 82); Stipulation Requesting to Reschedule H'rg Date (ECF No. 90); Stipulation Re. Request for Order Changing Time of Certain Deadlines in PTO (ECF No. 133); Stipulation to Extend Time to Respond to Third Amended Complaint (ECF No. 219); Synopsys' Motion to Extend Time for Case Management Conference (ECF No. 231).

1 Summary Judgment to November 14, 2018 and to extend the hearing on the Motion to Exclude or
2 to extend the Motions Hearing until November 28, 2018 is granted. Frost Decl. at ¶ 8.

3 For the foregoing reasons, Synopsys respectfully requests that the Court grant this Motion
4 and enter an order setting all Motions for hearing on November 28, 2018 or alternatively setting
5 the Motions for Summary Judgment and Synopsys' Motion for Sanctions for Spoliation on
6 November 14, 2018 and Ubiquiti Defendants' Motion to Exclude the Expert Testimony of Mr.
7 Malackowski and Mr. Hasler on November 28, 2018.

8 Dated: October 23, 2018

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11
12 By: /s/ Claudia Wilson Frost
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13 Attorneys for Plaintiff
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